

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

## JOHN THOMAS FALVEY.

## Plaintiff

v.

GEORGE W. BUSH, *et al.*

## Defendants.

Case No. 3:23-CV-00117-RCJ-CLB

**ORDER TO PAY FILING FEE  
OR FILE APPLICATION TO  
PROCEED *IN FORMA PAUPERIS***

## I. DISCUSSION

On March 21, 2023, Plaintiff John Thomas Falvey ("Falvey"), an inmate in the custody of the Elko County Jail, submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Falvey has neither paid the full \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed *in Forma Pauperis* for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
  - (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and
  - (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

The Court will grant Falvey a one-time opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **Monday, May**

1       **8, 2023.** Absent unusual circumstances, the Court will not grant any further extensions of  
2 time.

3           If Falvey is unable to file a fully complete application to proceed *in forma pauperis*  
4 with all three required documents or pay the full \$402 filing fee on or before **Monday, May**  
5 **8, 2023**, this case will be subject to dismissal without prejudice for Falvey to file a new  
6 case with the Court when Falvey is either able to acquire all three of the documents  
7 needed to file a fully complete application to proceed *in forma pauperis* or pays the full  
8 \$402 filing fee.

9           A dismissal without prejudice means Falvey does not give up the right to refile the  
10 case with the Court, under a new case number, when Falvey has all three documents  
11 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Falvey  
12 may choose not to file an application to proceed *in forma pauperis* and instead pay the  
13 full filing fee of \$402 on or before **Monday, May 8, 2023** to proceed with this case.

14          The Court will retain Falvey's civil rights complaint (ECF No. 1-1), but the Court will  
15 not file the complaint unless and until Falvey timely files a fully complete application to  
16 proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17       **II. CONCLUSION**

18          For the foregoing reasons, **IT IS ORDERED** that the Clerk of the Court will **SEND**  
19 Falvey the approved form application to proceed *in forma pauperis* by an inmate, as well  
20 as the document entitled information and instructions for filing an *in forma pauperis*  
21 application.

22          **IT IS FURTHER ORDERED** that on or before **Monday, May 8, 2023**, Falvey will  
23 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and  
24 the \$52 administrative fee) or file with the Court:

25           (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this  
26 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two  
27 signatures on page 3),

28           (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail

1 official (i.e. page 4 of this Court's approved form), and  
2 (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
3 **previous six-month period.**

4 **IT IS FURTHER ORDERED** that, if Falvey does not file a fully complete application  
5 to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a  
6 civil action on or before **Monday, May 8, 2023**, this case will be subject to dismissal  
7 without prejudice for Falvey to refile the case with the Court, under a new case number,  
8 when Falvey has all three documents needed to file a complete application to proceed *in*  
9 *forma pauperis* or pays the full \$402 filing fee.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court will retain the complaint  
11 (ECF No. 1-1) but will not file it at this time.

12 **IT IS SO ORDERED.**

13 **DATED:** March 22, 2023

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16 **UNITED STATES MAGISTRATE JUDGE**

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